

ESTTA Tracking number: **ESTTA572104**

Filing date: **11/20/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91206167
Party	Plaintiff BHPC Associates LLC
Correspondence Address	JEFFREY P WEINGART MEISTER SEELIG & FEIN LLP 140 EAST 45TH STREET, 19TH FLOOR NEW YORK, NY 10017 UNITED STATES sms@msf-law.com,jpw@msf-law.com
Submission	Motion to Extend
Filer's Name	Susan M. Schlesinger
Filer's e-mail	sms@msf-law.com,jpw@msf-law.com
Signature	/Susan M. Schlesinger/
Date	11/20/2013
Attachments	Opposer's Motion to Extend.pdf(158980 bytes ) Declaration - Opposer's Motion to Extend.pdf(91309 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Serial No.: 85/458,112  
Mark: POLO GEAR and Design  
Published in the Official Gazette on June 26, 2012

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BHPC Associates LLC,	:	
Opposer,	:	
	:	
v.	:	Opposition No. 91206167
	:	
Polo Gear Intellectual Properties, Inc.,	:	
Applicant.	:	
-----X		

**OPPOSER’S MOTION TO EXTEND DISCOVERY PERIOD  
AND TO RESET ALL SUBSEQUENT DEADLINES**

Pursuant to 37 C.F.R. 2.127(a), Fed. R. Civ. P. 6(b) and TBMP § 509.01(a), Opposer respectfully moves the Board for an extension of the discovery period for sixty (60) days and for a resetting of all subsequent deadlines in Opposition No. 91206167 (the “Opposition”).

As shown in the docket for the Opposition, Opposer has just recently retained the undersigned new counsel to represent it. Before filing this motion, new counsel for Opposer discussed with counsel for Applicant whether Applicant would agree to extend the dates in the Opposition. Counsel for Applicant advised that Applicant would not consent to an extension of the dates beyond a week or two. Accordingly, Opposer is filing the instant motion.

Opposer’s motion is for good cause. On November 15, 2013, Opposer engaged Meister Seelig & Fein LLP (“MSF”) to represent it with respect to this Opposition. (*See* Declaration of Susan M. Schlesinger (“Schlesinger Decl.”), ¶ 2). Upon taking over representation of Opposer in this Opposition, counsel from MSF was made aware by Opposer of the upcoming deadline

currently set for November 21, 2013, which is the close of discovery deadline. (*Id.*) The parties have been engaged in ongoing settlement discussions, but no agreement has been reached. (*Id.*) Given the impending deadline in the Opposition, on November 18, 2013, Opposer promptly executed a power of attorney seeking to substitute in new counsel from MSF. The power of attorney was then filed and served on November 18, 2013. (*See* Dkt. #24; Schlesinger Decl., ¶ 3).

Simultaneously, counsel from MSF reached out to counsel for Applicant to advise that it would be taking over representation of Opposer in the Opposition, and to ask if Applicant would agree to a 60-day extension of time in order to preserve the parties' rights given the upcoming deadline. (*See* Schlesinger Decl., ¶ 4). Counsel for Applicant advised that Applicant would not agree to a 60-day extension of time, stating that a one or two week extension would be reasonable. (*Id.*). However, such a short extension would not be sufficient for Opposer to preserve the right to request and receive discovery from Applicant, including deposition testimony, to be used in the event that the parties cannot amicably resolve the matter.

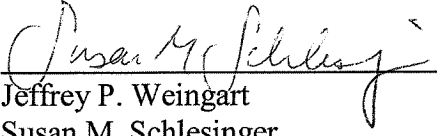
Inasmuch as counsel from MSF was just engaged to represent Opposer and proceeded to file an appearance in this Opposition as soon as possible after such engagement, Opposer has not delayed in seeking the relief requested in this motion. *Cf. Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 U.S.P.Q.2d 1848, 1851 (TTAB 2000) (defendant's counsel knew in advance that defendant would be unable to comply with deadline and waited to file unconsented motion to extend on the last day). Accordingly, based on the foregoing, Opposer respectfully submits that this motion is for good cause and respectfully requests that the extension of time be granted.

Should the Board grant Opposer's Motion, the following is the proposed revised schedule for the Opposition:

Discovery Closes:	January 20, 2014
Plaintiff's Pretrial Disclosures:	March 6, 2014
Plaintiff's 30-day Trial Period Ends:	April 19, 2014
Defendant's Pretrial Disclosures:	May 4, 2014
Defendant's 30-day Trial Period Ends:	June 18, 2014
Plaintiff's Rebuttal Disclosures:	July 3, 2014
Plaintiff's 15-day Rebuttal Period Ends:	August 2, 2014

Dated: November 20, 2013

Respectfully submitted,

  
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BHPC Associates LLC*

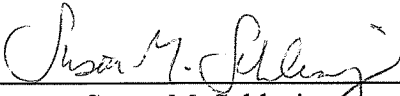
**Certificate of Service and Filing**

The undersigned hereby certifies that a copy of the foregoing Opposer's Motion to Extend Discovery Period and to Reset All Subsequent Deadlines was served on counsel of record for Applicant on the date indicated below via first-class mail postage prepaid to:

Daniel J. Barsky, Esq.  
Shutts & Bowen LLP  
200 E. Broward Blvd., Suite 2100  
Fort Lauderdale, FL 33301

and further certifies that the aforementioned Opposer's Motion to Extend Discovery Period and to Reset All Subsequent Deadlines was filed with the Trademark Trial and Appeal Board on the date indicated below online through the ESTTA system of the United States Patent and Trademark Office.

Dated: November 20, 2013

  
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Susan M. Schlesinger

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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In re Serial No.: 85/458,112  
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	:	
v.	:	Opposition No. 91206167
	:	
Polo Gear Intellectual Properties, Inc.	:	
Applicant.	:	
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**DECLARATION OF SUSAN M. SCHLESINGER**

I, Susan M. Schlesinger, pursuant to the requirements of 28 U.S.C. §1746, declare that the following is true and correct under the penalties of perjury:

1. I am associated with Meister Seelig & Fein LLP, counsel for Opposer, in Opposition No. 91206167 (the "Opposition"). I submit this declaration in support of Opposer's Motion to Extend Discovery Period and to Reset All Subsequent Deadlines.

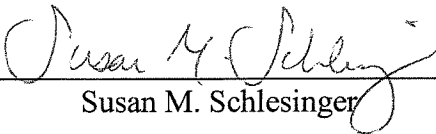
2. On November 15, 2013, Opposer engaged Meister Seelig & Fein LLP ("MSF") to represent it with respect to this Opposition. Upon taking over representation of Opposer in this Opposition, counsel from MSF was made aware by Opposer that there was an upcoming deadline currently set for November 21, 2013, which is the close of discovery deadline. Further, the parties have been engaged in ongoing settlement discussions, but no agreement has been reached.

3. On November 18, 2013, Opposer executed a power of attorney to substitute in counsel from MSF in the Opposition. I filed and served the power of attorney document on November 18, 2013.

4. Simultaneously, I reached out to counsel for Applicant regarding taking over representation of Opposer in the Opposition and regarding Opposer's request for a 60-day extension of time in order to preserve the parties' rights given the upcoming deadline. Counsel for Applicant advised that Applicant would not agree to a 60-day extension of time, stating that a one or two week extension of time would be reasonable.

I hereby declare that the foregoing is true and correct under penalty of perjury.

Dated: November 20, 2013

  
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Susan M. Schlesinger

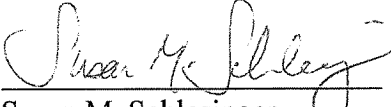
**Certificate of Service and Filing**

The undersigned hereby certifies that a copy of the foregoing Declaration of Susan M. Schlesinger was served on counsel of record for Applicant on the date indicated below via first-class mail postage prepaid to:

Daniel J. Barsky, Esq.  
Shutts & Bowen LLP  
200 E. Broward Blvd., Suite 2100  
Fort Lauderdale, FL 33301

and further certifies that the aforementioned Declaration of Susan M. Schlesinger was filed with the Trademark Trial and Appeal Board on the date indicated below online through the ESTTA system of the United States Patent and Trademark Office.

Dated: November 20, 2013

  
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Susan M. Schlesinger